

Relay 11/16/18

SUPERIOR COURT
COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, ss.

FILED

NOV 16 2018

BARNSTABLE
COURT

SUPERIOR

C.A. No.: 1672CV00234

Sent to Helen Clerk

JENNIFER CARROLL,
Plaintiff

v.

BARNSTABLE HOUSING AUTHORITY,
Defendant

JOINT PRE-TRIAL CONFERENCE MEMORANDUM

(1) AGREED FACTS:

On February 20, 2015 the Plaintiff Jennifer Carroll was lawfully on the premises at Sea Street Extension Apartments in Hyannis owned by the Defendant Barnstable Housing Authority.

(2) STATEMENTS OF THE CASE:

a. Plaintiff

On February 20, 2015 the Plaintiff Jennifer Carroll was employed by an agency to provide homemaking services to a client who lived at the Sea Street Extension Apartments. She went to the laundry room to wash the client's clothes. While there, she sat in a chair to tie her shoe. On standing she struck a fire extinguisher that was improperly hanging on the wall, causing it to fall on her foot breaking her toe. The Defendant was negligent in the placement of the fire extinguisher and the chair in a manner so as to cause this accident.

b. Defendant

The Defendant denies that the fire extinguisher was improperly hung or that it was negligent in the placement of the fire extinguisher or the chair. The Defendant contends that the fire extinguisher was in proper working order and was securely fastened to the wall. BHA hired Ralph Perry to install and perform annual inspections of all fire extinguishers and their fastening brackets. Ralph Perry conducted inspections in 2014, 2015 and 2016. Inspections were performed on March 14, 2014 and March 20, 2015. These inspections showed no issues with the extinguisher or the brackets. Ralph Perry did not notice any problems with the bracket and the bracket was not loose. The BHA received no complaints about the extinguisher or the brackets

prior to Plaintiff's accident. Following the accident no repairs were performed on the extinguisher or the bracket as none were needed. The brackets used to hold the fire extinguisher are widely used and acceptable method of hanging a fire extinguisher. The fire extinguisher and brackets were in compliance with all applicable codes.

The BHA did not own the chair in the laundry room. The BHA did not place the chair in the laundry room and had no notice or knowledge of the chair being in the laundry room.

The Defendant denies that it was negligent and contends that the accident occurred as a result of the Plaintiff's negligence.

3) SUGGESTED DESCRIPTION OF THE CASE:

This is a civil action in which the Plaintiff, Jennifer Carroll alleges she was injured when a fire extinguisher fell on her foot in a laundry room on the Defendant's property. Ms. Carroll alleges that the Defendant was negligent. The Defendant denies that it was negligent or that the condition was hazardous or unsafe and further contends that the incident occurred solely as a result of the Plaintiff's negligence.

(4) SIGNIFICANT LEGAL ISSUES:

None.

(5) WITNESSES:

a. Plaintiff. The Plaintiff may or will call the following to testify at trial:

1. Jennifer Carroll
2. Deborah Widuch of Overlook Care at Home
3. Robin Feely of Overlook Care at Home
3. Keeper of Records, Plaintiff's medical providers;
4. Any witness designated by the Defendants; and
5. Rebuttal witnesses, as appropriate

Plaintiff reserves the right to timely supplement this witness list prior to trial, including experts.

b. Defendant:

In addition to the witnesses designated by the Plaintiff the Defendant may call
Lori Finton-BHA
Paula LePore-BHA
David Hart-BHA
John Dunn-BHA
Vicki Eldredge-BHA

Justin Bearn-Ralph Perry

Kim Sullivan-Ralph Perry

Bob DiCarlo-Ralph Perry

Harvey Clauson

The defendant reserves the right to supplement this witness list

(6) EXPERT WITNESSES:

a. Plaintiff

The plaintiff reserve the right to timely designate expert witnesses prior to trial.

b. Defendant

The Defendant reserves the right to call rebuttal experts.

(7) ESTIMATED TRIAL LENGTH:

Three days.

(8) PLAINTIFF'S SPECIAL DAMAGES:

The plaintiff's itemized medical expenses and special damages to date are, as follows:

Cape Cod Hospital (02/20/15)	\$2,276.19
BWPO - Department of Radiology (02/20/15)	\$ 30.00
Scott Slater, MD (02/25/15-04/23/15)	\$ 270.00
Cape Cod Orthopaedics (02/24/15-06/05/15)	\$1,387.00
Cape Cod Emergency Physicians (02/20/15)	\$ 762.00
Cape Cod Orthopedics Physical Therapy (04/08/15-05/21/15)	\$2,519.00

\$399.18 in wages.

(9) STATUS:

Plaintiff is willing to arbitrate or mediate this matter.

(10) CERTIFICATION OF COUNSEL:

By his signature below, counsel for the Plaintiff certifies that he has apprised his client of the costs of litigation herein, as well as the option for alternate dispute resolution.

By her signature below, counsel for the Defendant certifies that she has apprised her client of the costs of litigation herein, as well as the option for alternative dispute resolution.

Jennifer Carroll

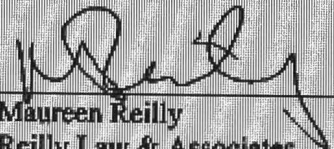
Barnstable Housing Authority

By her Attorney



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